IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

ORIGINAL JURISDICTION

Dated: Nainital: the 11th day of July, 2007
Criminal Bail Application No. 660 of 2007
Order on the Bail application of accused.

CRIMINAL SIDE

Suresh, S/o Sri Chandra Pal,
R/o Ward No.8 Rampura Rudrapur,
P.S. Rudrapur, Distt. U.S. Nagar

Applicant (In Jail)

Versus

State of Uttarakhand -------Opposite party

Arising out of Case Crime No.3474 of 2007
Under Section 307/504 I.P.C.
Police Station- Rudrapur, Distt. U.S. Nagar

Dated: July 11, 2007

Hon'ble Dharam Veer, J.

Heard Sri A.D. Massey, learned counsel for the applicant and Sri Nandan Arya, learned brief holder for the State.

2. The prosecution story in brief is that on 7.5.2007 at about 7:00 P.M., victim Suraj was called from his house by Neelu and then he had gone to Santowali River near Rampura. There, the present applicant Suresh and one other person Sunil were present. These people had beaten the injured Suraj. When the Suraj had resisted to it then Sunil asked Suresh (present applicant) to kill Suraj. Then Suresh had fired by his pistol to Suraj which hit at the cheek of the Suraj. For that injury, his face was badly affected and Suraj had become seriously injured. After that, Suraj had reached his house. For those averments, the FIR was lodged in the police station by Kharak Singh, brother of the injured Suraj on 7.5.2007 at 20:10 P.M.

The victim Suraj was medically examined by the doctor on 7.5.2007 at 8:40 P.M. at J.L. Nehru Hospital, Rudrapur (U.S. Nagar) and the following injuries were found on his body:-

A. *Open wound 3 cm. x 0.5 cm right side of face, 4 cm. from right ear, medically scorching and blackening.*
B. *Multiple small black pin head size marks present from neck till whole jaw.*

The doctor has stated in his opinion that the injuries were the firearm injuries within 6 hours.

Learned counsel for the applicant has submitted that the nature of the injuries and in the way in which the incident took place, applicant is entitled for bail.

Learned AGA has submitted that the injury is on the vital part of the body i.e. on the right side of the face and injury is a firearm injury. He further submitted that the intention of the applicant was to kill the victim Suraj and there is a specific role assigned to the applicant in the FIR. The firearm injury was caused to the applicant on the vital part of by the present applicant Suresh. After considering the fact that the applicant has been assigned main role in the FIR and he has caused the injuries to the victim Suraj on the vital part of his body with the intention to kill him, hence on the basis of the FIR and the injury report, the applicant does not deserve bail at this stage.

Hence, the bail application is **rejected.**

(Dharam Veer, J.)

Rajeev Dang